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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/777,179

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John Michael Dunn

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02/20/2007

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EXAMINER

PATEL, JAGDISH

ART UNIT

PAPER NUMBER

3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/777,179

Applicant(s)

DUNN ET AL.

Examiner

JAGDISH PATEL

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to the amendment filed 12/11/06.

Response to Amendment to the Claims

2. Claims 16, 17 and 31 have been amended . New claims 35-38 have been added. Claims 16-38 are currently pending.

Response to Applicant's Remarks

3. Claims 31-34 have been amended to overcome 101 rejection cited in the prior office action. However, the amended claim(s) do cure the deficiencies as outlined previously to overcome the rejection. The applicant argues that displaying mortgage data meets tangible and useful requirements of 35 USC 101. However, the claim fails to recite any element of the apparatus such as a computer processor connected to the comparison module and the commission filter which (computer processor) impart functionality of these elements to be realized. For example, the element "commission filter" which is recited to also performing the function of displaying has no processor associated with it and as such is non-functional element as is the comparison module. Therefore, the apparatus as a whole is not capable of performing any useful, concrete and tangible function even if it contains the (programmed) elements to do so. On these basis the claims stand rejected under 35 USC 101.

2. Applicant's arguments with respect to rejections of claims 16 and 31 (and dependent claims) over the prior art have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 31-39 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 31 recites limitation “a commission filter” which performs receiving (the rate matrix and filtering the rate matrix..) and displaying (only those loan programs for which the ..commission filter). As best understood by the examiner the claim recites that commission filter comprises functionalities of receiving, filtering and displaying. However, specification does not describe the commission filter which performs all the aforementioned functions.

5. Claims 16-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The amended claims recite limitation displaying parameters of said loan programs “in a manner that “depends upon said loan programs’ suitability for the borrower and upon said loan programs’ commission payable to said professional”. This renders the displaying step unclear and indefinite, since the claim fails to provide any basis for the loan programs’ suitability for the

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borrower and the loan programs commission payable to said professional. Since there is none of the process steps is performed by a computer, it is proper to assume that determination of (a) the “loan programs’ suitability for the borrower” and (b) the dependency of the loan program parameters being displayed on “loan programs’ commissions payable to said professional” is carried out manually and subject to human judgment. Therefore, the parameters of the loan programs are not specifically defined or determined. This defect renders independent claims 16 and 31 and related dependent claims indefinite.

Claim 31 recites limitation “the rate matrix” . There is no antecedent basis for this limitations in the claim. It is asserted there is no basis for the commission filter to perform the filtering function because no “rate matrix” is specified in the claim. Dependent claims 32-38 also inherit this deficiency.

Claim 35 is not sufficiently precise due to the combining of two different statutory classes of invention in a single claim. The preamble the claim refers to a apparatus, but the body of the claim discusses the specifics of a process (generating multiple displays). A claim is considered indefinite if it does not apprise those skilled in the art of its scope. *Amgen, Inc. v. Chugai Pharm. Co.*, 927 F. 2d 1200, 1217 (Fed. Cir. 1991). A claim is considered indefinite if it does not apprise those skilled in the art of its scope. *Amgen, Inc. v. Chugai Pharm. Co.*, 927 F. 2d 1200, 1217 (Fed. Cir. 1991).

Claims 36 and 37 recite features which do not correspond to any element of the apparatus recited in claim 31. The claim does not further limit the structure of the apparatus because it does not further limit (i) the input port, (ii) the comparison module and (iii) the commission filter. Claim 37 depends upon claim 36 and is rejected on the same grounds.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 31-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 31-38 merely recite elements of an apparatus or a system without showing any functionality and therefore is rendered inoperative lacking any utility. The comparison module, the rate filter and the commission filter are software programs connected to the database and the input (means). However, such an apparatus is not functional because no element is recited which

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would impart functionality to the apparatus and therefore the claimed invention as whole lack any utility. Based upon this explanation Claims 31-34 stand rejected under 35 USC 101.

Please refer to further explanation provided in the previous office action.

Additionally Claims 35 is also rejected under 35 U.S.C. §101 because the claimed invention multiple statutory classes.

35 U.S.C. §101 requires that in order to be patentable the invention must be a “new and useful process, machine, manufacture or composition of matter or new and useful improvement thereof” (emphasis added). Applicant’s claims mentioned above are intended to embrace or overlap two different statutory classes of invention as set forth in 35 U.S.C. §101. The claim begins by discussing an apparatus (ex. “a qualification processing apparatus”), the body of the claims discusses the specifics of a process (generating multiple displays) A claim of this type is precluded by express language of 35 U.S.C. §101 which is drafted so as to set forth statutory the statutory classes of invention in the alternative only”, Ex parte Lyell (17USPQ2d 1548).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald et al. (see prior office action) and further in view of BRADLEY INMAN “**MORTGAGE SOFTWARE BIG AID TO AGENTS**” San Francisco Examiner (EX) - Sunday, April 9, 1995 (hereafter referred to as “**MORTGAGE SOFTWARE**”)

Per claims 16 McDonald teaches a method for originating a loan for a borrower, the method comprising:

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prompting a professional concerning loan origination for a borrower;

(para [0032], refer to process performed by the originator)

qualifying the borrower for at least one loan program;

(para [0032] and Figure, 3 which is a flow chart depicting a customized process for a real estate loan broker/agents (originator "RE")

obtaining list qualified loan programs, each qualified loan program including a rate and a commission;

presenting at least one qualified loan program the borrower;

applying on behalf of the borrower for one qualified loan

program to procure a loan application; and

monitoring status of the loan application and commission pipeline.

(para [0032] and Figure, 3 which is a flow-chart depicting a customized process for a real estate loan broker/agents (originator "RE").

McDonald fails to teach displaying parameters of plural of said loan programs in a manner that depends upon said loan programs' the borrower and upon said loan programs' commissions payable to said professional.

MORTGAGE SOFTWARE, in the same field of endeavor, teaches a mortgage loan processing method and apparatus specifically applicable to professional who are processing mortgage loans for commissions. MORTGAGE SOFTWARE discloses that the software assists the professional to search for the most lucrative commission for the professional and for a list of a qualified loan programs. (see Text, first paragraph). It is obvious from and inherent in the

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MORTGAGE SOFTWARE that a display of a plurality of plural of said qualified loan programs and applicable commissions for the mortgage professional is provided.

It would have been obvious to one of ordinary skill in the art at the time of the instant application to have provided a display which depends upon the parameters of the loan programs suitable for the borrower and the loan programs commissions because this would allow the professional to select the loan programs on the basis of most favorable loan terms for the borrower in combination with the higher commissions for the broker.

The features recited in claims 17, 18, 20, 21, 29 and 30 are inherently included in the process of loan data processing as disclosed by McDonald since such processes as borrower's authorization and consulting the borrower are customary in the art of loan processing.

Claim 19: borrowers' authorization includes obtaining electronic signature..([0063], "... authentication process for the client/user may include digital signature authentication as well as other types of cryptographic verification and authentication of users.")

Claim 22: McDonald, teaches the step of returning list of qualified loan programs and respective loan information, ([0062] .. The borrower-supplied credit data is then passed to a Loan Origination & Program Matching module 407 (456 in FIG. 4C). The Loan Origination & Program Matching module returns a list of loan products for which the borrower is qualified 409), wherein loan information comprises term, points and associated interest rates based upon the borrower credit score.

Claims 23-26 are similarly analyzed as claims 17-22.

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Claim 27. McDonald and Mortgage Software as analyzed fail teach that the list of qualified loan programs includes a visual indicator for loan programs having certain attributes (commission below a minimum).

Official Notice is taken that providing a visual indicator for (an icon or graphical character etc.) to bring any other suitable characteristics of the list items to the user's attention is old and well known.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide a visual indicator as recited for obtain the stated benefit.

Claim 28 is also analyzed on similar grounds as claim 27.

Claims 31-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dykes and further in view of BRADLEY INMAN "MORTGAGE SOFTWARE BIG AID TO AGENTS" San Francisco Examiner (EX) - Sunday, April 9, 1995 (hereafter referred to as "MORTGAGE SOFTWARE")

(Examiner's Note: claim 31 and dependent claims are deficient as explained under 35 USC 112 (first and second).

As per claims 31-38 Dykes teaches substantially all elements of the qualification processing apparatus including a comparison module, rate filter and a commission filter (see OBJECTS AND SUMMARY OF THE INVENTION and Figures 1 and 2c, 2f and 5, which show the commission filter as generating loan rate matrix detailing loan rates and commissions as points). Note that Dykes incorporates all functionality of the components of the apparatus recited in the subject claims.

However, Dykes fails to teach displaying parameters of plural of said loan programs in a manner that depends upon said loan programs' the borrower and upon said loan programs' commissions payable to said professional.

MORTGAGE SOFTWARE, in the same field of endeavor, teaches a mortgage loan processing method and apparatus specifically applicable to professional who are processing

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mortgage loans for commissions. MORTGAGE SOFTWARE discloses that the software assists the professional to search for the most lucrative commission for the professional and for a list of a qualified loan programs. (see Text, first paragraph). It is obvious from and inherent in the MORTGAGE SOFTWARE that a display of a plurality of plural of (only) said qualified loan programs and applicable commissions for the mortgage professional is provided.

Official notice is taken that filtering data and arranging data according user specified criteria, for example, providing data having values higher than a specified threshold is old and well known in the display of organized data.

It would have been obvious to one of ordinary skill in the art at the time of the instant application to have provided a display which depends upon the parameters of the loan programs suitable for the borrower and the loan programs commissions because this would allow the professional to select the loan programs on the basis of most favorable loan terms for the borrower in combination with the higher commissions for the broker. Furthermore, it would have been obvious to provide a filter having the capability to filter user specified commission values because this would aid the user to efficiently manipulate data according a predefined criteria, specifically allow the user to view the commission data in a desired order.

Claim 38: As per claim 38 Dykes teaches all elements of the qualification processing apparatus including a comparison module, rate filter and a commission filter (see OBJECTS AND SUMMARY OF THE INVENTION and Figures 1 and 2c, 2f and 5, which show the commission filter as generating loan rate matrix detailing loan rates and commissions as points). Note that Dykes incorporates all functionality of the components of the apparatus recited in the subject claim.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748.

The examiner can normally be reached on **800AM-630PM Mon-Tue and Thu**.

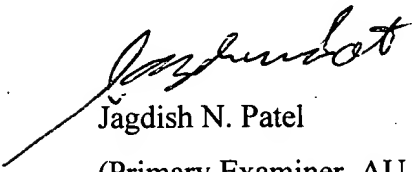
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **KRAMER JAMES A** can be reached on **(571)272-6783**. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Jagdish N. Patel

(Primary Examiner, AU 3693)

2/15/07